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Comptroller of Public Accounts

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AUSTIN, TEXAS 78711-3528

February 6, 2001

Mr. Charlie Shear
Communication and Information Services Manager
City of College Station
Post Office Box 9960
College Station, Texas 77842-3360

Dear Mr. Shear:

I appreciated receiving your e-mail regarding credit cards and e-government. I also appreciated your kind words regarding my *e-Texas* initiatives. Our local government analysts have found that cities in Texas are currently accepting credit cards not only for the payment of traffic-parking citations, but for many other fees and charges.

I asked my staff to review the statutes to determine what options you had. Their research indicated that the existing statutes governing payment of fees and other costs by credit card or electronic means are interpreted differently by individual cities. This has lead to various processes to provide this payment option to citizens. Some cities accepting credit cards for payment of services are using third-party processors and are assessing a nominal fee to cover costs associated with this service, while others are absorbing these costs.

While state law specifically authorizes counties to absorb these costs, it is less clear whether municipalities have that option. For example, Section 132.002 of the Texas Local Government Code expressly authorizes both municipalities and counties to accept payment for fees, fines, court costs or other charges by credit card. And the section expressly authorizes cities and counties to collect a fee for processing the payment by credit card. With respect to municipalities, Subsection 132.002 (b) uses the word "may" instead of "shall" when describing the authority of a municipality to collect fees, implying that assessing fees for use of a credit card is discretionary with the municipality. Please refer to Subsection 132.002 (b), Local Gov't Code, which states that "The governing body of a municipality *may* authorize a municipal official who collects fees, fines, court costs, or other charges to: (1) accept payment by credit card of a fee, fine, court cost, or other charge; and (2) collect a fee for processing the payment by credit card."



On the other hand, Subsection (d) of Section 132.002 expressly authorizes a commissioner's court to authorize the acceptance of payments by credit card without requiring collection of a fee. Subsection 132.002 (d), Local Gov't Code, states that "A commissioner's court may authorize the acceptance of payment by credit card or by electronic means without requiring collection of a fee." However, there is no comparable provision expressly stating that a municipality has the same discretion.

We have found no current Attorney General opinions clarifying this issue. You may want to work with the Texas Municipal League or your state senator, Steve Ogden, and your state representatives, Lois Kolkhorst and Fred Brown, to seek a legislative change to clarify the law, and rectify the apparent conflict.

Thank you for your suggestions. I forwarded a copy of your e-mail to Alfonso Casso, manager of my Local Government Assistance Section. If you should have any additional questions, please feel free to contact Alfonso by e-mail at alfonso.casso@cpa.state.tx.us, or by phone at 1-800-531-5441, extension 3-5631.

Please let me know if I can be of further assistance. Thanks for all that you do for Texas.

Sincerely,


Carole Keeton Rylander
Texas Comptroller

c: Alfonso Casso

*Let me know if
you need help further
this is 512-463-4444*